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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/559,890
Filing Date: December 06, 2005
Appellant(s): SCHMIDT ET AL.

Andreas H. Grubert
Reg. No. 59,143
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/7/2011 appealing from the Office action

mailed 10/15/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

Claims 29-58 are pending and they are rejected.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

US PGPUB No:. 2003/0154300 A1	Mostafa, Miraj	February, 2003
US PGPUB No:. 2003/0096598 A1	Prenzel et al.	May, 2002
US PGPUB No:. 2002/0165024 A1	Puskala, Teemu	March, 2002
US PGPUB No:. 2002/0132608 A1	Shinohara, Masahito	March, 2002
US-PAT-NO: 5953506 A	Kalra et al.	December, 1996

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 29-31, 34-41, 45 and 56-58 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Mostafa, U.S. PGPub No.: 20030154300, in view Shinohara, U.S.

PGPub No.: 20020132608

Referring to claim 29, Mostafa discloses a method for transmitting messages in a

communication network comprising:

transmitting a transmission message containing one or more user data objects to

a switching component for forwarding to a first telecommunication device (fig. 2, MMS

user agent A (110A), wishes to send some media content to MMS user agent B (110B)

via MMS relay server);

transmitting a delivery request (fig. 3, items 310, 330, request) message to the first telecommunication device informing the first telecommunication device of the availability of the plurality of variants of the one or more user data objects that have been created by the switching component to before transmitting the transmission message to the first telecommunication device ([0002], The multimedia message is then sent from a sending MMS user agent to a Multimedia Messaging Service Centre MMSC, which in turn notifies the intended receiver (recipient MMS user agent) about the message. Later on, the multimedia message is downloaded by the recipient MMS user agent terminal as a whole and only presented to the user once downloaded and stored in the recipient MMS user agent).

Mostafa does not explicitly disclose creating a plurality of variants of the one or more user data objects in the switching component as a function of one or more parameters.

However, Shinohara discloses creating a plurality of variants of the one or more user data objects in the switching component as a function of one or more parameters (fig. 3, items 30 and 50, [0064], MMS server modify the multimedia message to a different format and save in a MMS server so destination mobile telephones may access the message).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Shinohara with the teaching of Mostafa by including the feature of plurality of variants, in order for Mostafa's system able to modifies the data format of the multimedia message to a format that can be received by

all of the destination mobile telephones and then stores the multimedia message in

MMS servers, as a result it will be possible to transmit and receive a variety of data

including text, graphics, video, and audio, as messages (Shinohara, [0009]).

Referring to claim 30, Mostafa discloses the method according to claim 29,

further comprising:

selecting a specific variant of the one or more user data objects and transmitting

said selection from the first telecommunication device to the switching component (fig.

2, [0019], MMS user agent A first selects the media content to be transmitted. For

example, the media content may take the form of a still image and some associated

text, stored in the memory of user agent); and

transmitting a delivery message containing the requested variant of the one or

more user data objects from the switching component to the first telecommunication

device ([0002], The multimedia message is then sent from a sending MMS user agent

to a Multimedia Messaging Service Centre MMSC, which in turn notifies the intended

receiver (recipient MMS user agent) about the message. Later on, the multimedia

message is downloaded by the recipient MMS user agent terminal as a whole and only

presented to the user once downloaded and stored in the recipient MMS user agent).

Referring to claim 31, Mostafa discloses the method according to claim 29,

wherein the step of informing the first telecommunication device comprises:

generating respective recipient notification messages assigned to a specific

variant of the one or more user data objects ([0041], preferably, with the same

multimedia message, both streamable and non-streamable components may be sent

from an originator to a recipient by using the descriptor before downloading the

multimedia message); and

transmitting the respective recipient notification messages from the switching

component to the first telecommunication device (fig. 4, item 310; informs MMS user

agent B of the arrival of the message using an MMS notification message 310

(MM1_notifcation.REQ in 3GPP TS 23.140).

Referring to claim 34, Mostafa discloses the method according to claim 29,

wherein the parameters include parameters with descriptive information, which includes

the significance of user data objects contained in the transmission message and/or the

relationships between contained user data objects ([0041], preferably, with the same

multimedia message, both streamable and non-streamable components may be sent

from an originator to a recipient by using the descriptor before downloading the

multimedia message).

Referring to claim 35, Mostafa discloses the method according to claim 29,

wherein the transmission message is transmitted from a second telecommunication

device to the switching component (fig. 4, item 320 [0023], Next, the MMS user agent B

responds with an MMS notification response 320 (MM1_notifcation.RES in 3GPP TS

23.140) to acknowledge receipt of the MMS notification 310).

Referring to claim 36, Mostafa discloses the method according to claim 35,

wherein the transmission message, delivery request message, delivery message, and

recipient notification messages are transmitted in the context of the multimedia

messaging service between the first telecommunication device and the switching

component and/or the second telecommunication device and the switching component

(Fig. 3, items 310-350, [0022], flow of messages between a receiving MMS relay/MMS

server and a recipient MMS user agent) .

Referring to claim 37, Mostafa disclose the messages to and from the first

telecommunication device and/or the second telecommunication devices are sent via an

air interface (fig. 2, items 212, 222; [0017], radio communication network).

Referring to claim 38, Mostafa disclose the first and/or second

telecommunication device comprises a radio module (fig. 2, items 212, 222; [0017],

radio communication network).

Referring to claim 39, Mostafa discloses the method according to claim 35,

wherein messages to and from the first and/or second telecommunication device are

transmitted by means of the WAP protocol WSP and/or the hypertext transfer protocol

([0079], WAP protocol).

Referring to claim 40, Mostafa discloses the first telecommunication device is

part of a first telecommunication network ([0017], it should be appreciated that either

MMSE user agent A or MMSE user agent B, or both of them, could reside in a fixed line

network).

Referring to claim 41, Mostafa discloses the first telecommunication network is

configured as a mobile radio network, operating according to the GSM, GPRS, EDGE,

UMTS, or CDMA standard ([0004]- [0009]; according to 3GPP TS 23.140 standard,

such as GSM, UMTS).

Referring to claim 45, Mostafa discloses the switching component is configured

as an MMS relay server ([fig. 2, items 214, 224; [0017], MMS relay server)

Referring to claim 56, Mostafa discloses the method for transmitting messages in

a communication network, comprising:

transmitting a transmission message containing one or more user data objects to

a switching component, wherein the switching component is operable to forward the

transmission message to a first telecommunication device selected from a plurality of

different telecommunication devices (fig. 2 ; [0018], MMS user agent A (110A), wishes

to send some media content to MMS user agent B (110B); also see [0017], MMSE A

and MMSE B may, for example, have different operators, different geographical

locations or coverage areas and/or differ in terms of their technical characteristics and capabilities);

before transmitting the transmission message to said first telecommunication device, transmitting a delivery request message to the first telecommunication device by the switching component informing the first telecommunication device of the availability of all variants of the one or more user data objects that have been created by the switching component ([0002], The multimedia message is then sent from a sending MMS user agent to a Multimedia Messaging Service Centre MMSC, which in turn notifies the intended receiver (recipient MMS user agent) about the message. Later on, the multimedia message is downloaded by the recipient MMS user agent terminal as a whole and only presented to the user once downloaded and stored in the recipient MMS user agent).

Mostafa does not explicitly disclose creating a plurality of variants of the one or more user data objects in the switching component as a function of one or more parameters, the plurality of variants includes an unaltered version of the one or more user data objects.

However, Shinohara discloses creating a plurality of variants of the one or more user data objects in the switching component as a function of one or more parameters, the plurality of variants includes an unaltered version of the one or more user data objects (fig. 3, items 30 and 50, [0064], MMS server modify the multimedia message to a different format and save in a MMS server so destination mobile telephones may access the message).

It would have been obvious to one of ordinary skill in the art at the time of

invention to combine the teaching of Shinohara with the teaching of Mostafa by

including the feature of plurality of variants, in order for Mostafa's system able to

modifies the data format of the multimedia message to a format that can be received by

all of the destination mobile telephones and then stores the multimedia message in

MMS servers, as a result it will be possible to transmit and receive a variety of data

including text, graphics, video, and audio, as messages (Shinohara, [0009]).

Referring to claim 57, Mostafa discloses a system for transmitting messages in a

communication network, comprising:

a switching component receiving a transmission message containing one or

more user data objects for forwarding to a first telecommunication device (fig. 2; [0018],

MMS user agent A (110A), wishes to send some media content to MMS user agent B

(110B) via MMS relay server);

wherein the switching component is further operable to transmit a delivery

request message to the first telecommunication device informing the first

telecommunication device of the availability of the plurality of variants of the one or

more user data objects before transmitting the transmission message to the first

telecommunication device ([0002], The multimedia message is then sent from a sending

MMS user agent to a Multimedia Messaging Service Centre MMSC, which in turn

notifies the intended receiver (recipient MMS user agent) about the message. Later on,

the multimedia message is downloaded by the recipient MMS user agent terminal as a

whole and only presented to the user once downloaded and stored in the recipient MMS

user agent).

Mostafa does not explicitly disclose the switching component is operable to

create a plurality of variants of the one or more user data objects as a function of one or

more parameters wherein the plurality of variants includes an unaltered version of the

one or more user data objects.

However, Shinohara discloses the switching component is operable to create a

plurality of variants of the one or more user data objects as a function of one or more

parameters wherein the plurality of variants includes an unaltered version of the one or

more user data objects (fig. 3, items 30 and 50, [0064], MMS server modify the

multimedia message to a different format and save in a MMS server so destination

mobile telephones may access the message).

It would have been obvious to one of ordinary skill in the art at the time of

invention to combine the teaching of Shinohara with the teaching of Mostafa by

including the feature of plurality of variants, in order for Mostafa's system able to

modifies the data format of the multimedia message to a format that can be received by

all of the destination mobile telephones and then stores the multimedia message in

MMS servers, as a result it will be possible to transmit and receive a variety of data

including text, graphics, video, and audio, as messages (Shinohara, [0009]).

Referring to claim 58, Mostafa discloses a telecommunication device for

transmitting and receiving messages in a communication network, wherein the

telecommunication device is operable:

to receive a delivery request message from a switching component (fig. 4, item

310 [0023], MMS server B, and then informs MMS user agent B of the arrival of the

message using an MMS notification message 310 (MM1_notifcation.REQ in 3GPP TS

23.140),

wherein the switching component is operable to receive a transmission message

containing one or more user data objects for forwarding to the telecommunication

device (fig. 4, item 330; [0023], it sends an MMS retrieve request 330

(MM1_retrieve.REQ),

transmit the delivery request message to the telecommunication device informing

the telecommunication device of the availability of the plurality of variants of the one or

more user data objects that have been created by the switching component before

transmitting the transmission message to the first telecommunication device (fig. 4, item

340, [0002], The multimedia message is then sent from a sending MMS user agent to a

Multimedia Messaging Service Centre MMSC, which in turn notifies the intended

receiver (recipient MMS user agent) about the message. Later on, the multimedia

message is downloaded by the recipient MMS user agent terminal as a whole and only

presented to the user once downloaded and stored in the recipient MMS user agent),

to select at least one of said variants and to receive a delivery, message

containing the requested at least one variant of the one or more user data objects from

the switching component (fig. 4, item 340, [0019], MMS user agent A first selects the

media content to be transmitted. For example, the media content may take the form of a

still image and some associated text, stored in the memory of user agent, also see

[0081]).

Mostafa does not explicitly disclose creating a plurality of variants of the one or

more user data objects in the switching component as a function of one or more

parameters.

However, Shinohara discloses creating a plurality of variants of the one or more

user data objects in the switching component as a function of one or more parameters

(fig. 3, items 30 and 50[0064], MMS server modify the multimedia message to a

different format and save in a MMS server so destination mobile telephones may

access the message).

It would have been obvious to one of ordinary skill in the art at the time of

invention to combine the teaching of Shinohara with the teaching of Mostafa by

including the feature of plurality of variants, in order for Mostafa's system able to

modifies the data format of the multimedia message to a format that can be received by

all of the destination mobile telephones and then stores the multimedia message in

MMS servers, as a result it will be possible to transmit and receive a variety of data

including text, graphics, video, and audio, as messages (Shinohara, [0009]).

9.2.   Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Mostafa and Shinohara as applied above claim, in view of Kalra et al. (herein after

Kalra) U.S. Patent: No.: 5953506.

Referring to claim 32, Mostafa and Shinohara discloses the invention as

described above. Mostafa and Shinohara do not explicitly disclose the parameters

include parameters with information about the individual characteristics of the

telecommunication device and in particular about applications provided on the

telecommunication device.

However, Kalra discloses the parameters include parameters with information

about the individual characteristics of the telecommunication device and in particular

about applications provided on the telecommunication device (col. 2, lines 8-14, profile;

also see col. 4, lines 15-35 and lines 50-60).

It would have been obvious to one of ordinary skill in the art at the time of

invention to combine the teaching of Kalra with the teaching of Mostafa and Shinohara

by including the feature of profile, in order for Mostafa's system to access the streams

from the server are tailored to match the profile of each client computer so that the best

combination of streams can be provided to maximize the resolution of the 3D, audio and

video components. Since different stream combinations can be accessed, this

advantageously allows for the various combinations of content and resolution that are

tailored to match that of the specific client computer. If desired, however, the profile can

be further adapted to increase the resolution of certain characteristics, such as sound,

at the expense of other characteristics, such as video (Kalra, col. 2, lines 35-45).

Referring to claim 33, Mostafa and Shinohara discloses the invention as

described above. Mostafa and Shinohara do not explicitly disclose the parameters

include parameters with information about the individual preferences of the recipient.

However, Kalra discloses the parameters include parameters with information about the

individual preferences of the recipient (col. 2, lines 8-14, profile; also see col. 4, lines

15-35; and lines 50-60).

It would have been obvious to one of ordinary skill in the art at the time of

invention to combine the teaching of Kalra with the teaching of Mostafa and Shinohara

by including the feature of profile, in order for Mostafa's system to access the streams

from the server are tailored to match the profile of each client computer so that the best

combination of streams can be provided to maximize the resolution of the 3D, audio and

video components. Since different stream combinations can be accessed, this

advantageously allows for the various combinations of content and resolution that are

tailored to match that of the specific client computer. If desired, however, the profile can

be further adapted to increase the resolution of certain characteristics, such as sound,

at the expense of other characteristics, such as video (Kalra, col. 2, lines 35-45).

9.3.   Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Mostafa and Shinohara as applied above claim, in view of Puskala, US PGPub

No.: 20020165024A1.

Referring to claim 42, Mostafa and Shinohara discloses the invention as

described above. Mostafa and Shinohara do not explicitly disclose the switching

component is configured as part of a second telecommunication network connected

coupled to the first telecommunication network, which operates under the hypertext

transfer protocol. However, Puskala discloses the switching component is configured as

part of a second telecommunication network connected coupled to the first

telecommunication network, which operates under the hypertext transfer protocol (fig. 1,

item 43; [0038], HTTP).

It would have been obvious to one of ordinary skill in the art at the time of

invention to combine the teaching of Puskala with the teaching of Mostafa and

Shinohara by including the feature of hypertext transfer protocol, in order for Mostafa's

system to use hypertext transfer protocol, which gives user more choices to use system.

Referring to claim 43, Mostafa and Shinohara discloses the invention as

described above. Mostafa and Shinohara do not explicitly disclose the first and second

telecommunication networks are connected coupled together by a WAP gateway.

However, Puskala discloses the first and second telecommunication networks are

connected coupled together by a WAP gateway (fig. 1, item 50; [0038], WAP gateway).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Puskala with the teaching of Mostafa and Shinohara by including the feature of WAP gateway, in order for Mostafa's system to access information all in one place, which may save system processing time, resources and gain efficiencies.

9.4.   Claims 44 and 46-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mostafa and Shinohara as applied to claim above in view of Prenzel et al., (herein after Prenzel) US Pub No.: 2003/0096598A1

Referring to claim 44, Mostafa and Shinohara discloses the invention as described above. Mostafa and Shinohara do not explicitly disclose the recipient notification message is transmitted to the telecommunication device by WAP push. However, Prenzel discloses the recipient notification message is transmitted to the telecommunication device by WAP push ([0022], WAP push).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Prenzel with the teaching of Mostafa and Shinohara by including the feature of WAP push in order for Mostafa's system to access messaging content such as pictures, text combined with images and/or sounds which may saving system processing time, resources and gain efficiencies.

Referring to claim 46, Mostafa and Shinohara discloses the invention as described above. Mostafa and Shinohara do not explicitly disclose recipient notification messages, which are assigned to variants of user data objects of a specific transmission message, comprise specific standard identification information. However, Prenzel discloses recipient notification messages, which are assigned to variants of user data objects of a specific transmission message, comprise specific standard identification information ([0051], identification).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Prenzel with the teaching of Mostafa and Shinohara by including the feature of standard identification information, in order for Mostafa's system to access specific messaging content such as pictures, text combined with images and/or sounds which may saving system processing time, resources and gain efficiencies.

Referring to claim 47, Mostafa discloses message generated by the switching component for the variants of the one or more user data objects of a transmission message (fig. 2, [0019], MMS user agent a first selects the media content to be transmitted. For example, the media content may take the form of a still image and some associated text, stored in the memory of user agent).

Mostafa and Shinohara do not explicitly disclose the recipient notification messages, which are assigned to variants of user data objects of a specific transmission message further comprise total information, indicating the total number of

recipient notification messages. However, Prenzel discloses the recipient notification

messages which are assigned to variants of user data objects of a specific transmission

message ([0042]-[0043], data set), further comprise total information, indicating the total

number of recipient notification messages ([0043], data set).

It would have been obvious to one of ordinary skill in the art at the time of

invention to combine the teaching of Prenzel with the teaching of Mostafa and

Shinohara by including the feature of notification messages, in order for Mostafa's

system to access specific messaging content such as pictures, text combined with

images and/or sounds which may saving system processing time, resources and gain

efficiencies.

Referring to claim 48, Mostafa and Shinohara discloses the invention as

described above. Mostafa and Shinohara do not explicitly disclose different recipient

notification messages have sequence information, which contains the sequence of the

variants of the one or more user data objects generated by the switching component.

However, Prenzel discloses different recipient notification messages have sequence

information, which contains the sequence of the variants of the one or more user data

objects generated by the switching component ([0043]).

It would have been obvious to one of ordinary skill in the art at the time of

invention to combine the teaching of Prenzel with the teaching of Mostafa and

Shinohara by including the feature of sequence information, in order for Mostafa's

system to stay connected with mobile devices with specific information, which may save

system processing time, resources and gain efficiencies.

Referring to claim 49, Mostafa and Shinohara discloses the invention as

described above. Mostafa and Shinohara do not explicitly disclose the different

recipient notification messages have differentiation information, which indicates whether

a variant of a user data object assigned to a respective recipient notification message is

the original variant contained in the transmission message or a modified variant.

However, Prenzel discloses the different recipient notification messages have

differentiation information, which indicates whether a variant of a user data object

assigned to a respective recipient notification message is the original variant contained

in the transmission message or a modified variant ([0021], modify).

It would have been obvious to one of ordinary skill in the art at the time of

invention to combine the teaching of Prenzel with the teaching of Mostafa and

Shinohara by including the feature of different recipient notification messages have

differentiation information in order for Mostafa's system to reduced traffic channel and

time saving which may saving system processing time, resources and gain efficiencies.

Referring to claim 50, Mostafa and Shinohara discloses the invention as

described above. Mostafa and Shinohara do not explicitly disclose the sequence

information in the different recipient notification messages indicates which of the

recipient notification messages relates to the unmodified original version of the at least

one user data object or the transmission message. However, Prenzel discloses the sequence information in the different recipient notification messages indicates which of the recipient notification messages relates to the unmodified original version of the at least one user data object or the transmission message ([0021], chain).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Prenzel with the teaching of Mostafa and Shinohara by including the feature of sequencing information in the different recipient notification messages, in order for Mostafa's system to reduced traffic channel and saving time which may saving system processing time, resources and gain efficiencies.

Referring to claim 51, Mostafa and Shinohara discloses the invention as described above. Mostafa and Shinohara do not explicitly disclose the identification information and/or the total information and/or the sequence information is provided under a respectively independent header field in a recipient notification message.

However, Prenzel discloses the identification information and/or the total information and/or the sequence information is provided under a respectively independent header field in a recipient notification message ([0013], header).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Prenzel with the teaching of Mostafa and Shinohara by including the feature of header field in order for Mustafa's system manage transmission reference which may contain transmission time, source, file size, images, and sounds.

Referring to claim 52, Mostafa and Shinohara discloses the invention as described above. Mostafa and Shinohara do not explicitly disclose the identification information and/or the total information and/or the sequence information together is coded in a recipient notification. However, Prenzel discloses the identification information and/or the total information and/or the sequence information together is coded in a recipient notification message ([0042]).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Prenzel with the teaching of Mostafa and Shinohara by including the feature of coding identification information and/or the total information and/or the sequence information together in a recipient notification message in order for Mustafa's system manage transmission reference which may contain transmission time, source, file size, images, and sounds.

Referring to claim 53, Mostafa and Shinohara discloses the invention as described above. Mostafa and Shinohara do not explicitly disclose the identification information and/or the total information and/or the sequence information is processed by the first telecommunication device on receipt of a respective recipient notification message.

However, Prenzel discloses the identification information and/or the total information and/or the sequence information is processed by the first telecommunication device on receipt of a respective recipient notification message ([0043], dataset).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Prenzel with the teaching of Mostafa and Shinohara by including the feature of identification information in order for Mustafa's system to manage transmission reference, which may contain transmission time, source, file size, images, and sounds.

Referring to claim 54, Mostafa and Shinohara discloses the invention as described above. Mostafa and Shinohara do not explicitly disclose variants for transmission by the switching component are displayed on a user interface so that a user can select one or more variants and request transmission by the switching component.

However, Prenzel discloses variants for transmission by the switching component are displayed on a user interface so that a user can select one or more variants and request transmission by the switching component (abstract, [0004], display).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Prenzel with the teaching of Mostafa and Shinohara by including the feature of displaying variants on a user interface so that a user can select one or more variants in order for Mostafa's system to manage the multimedia messages.

Referring to claim 55, Mostafa discloses the user data objects contain text
information, audio information, video information, executable programs, software
modules or a combination of such information ([0025], audio or video clip, or a
combination of different media types).

(10) Response to Argument

10.1   Appellant's arguments (Brief, pages 1-18) have been fully considered and are
addressed below.

10.2   Regarding claims 29, 56, 57, and 58 Appellant argues, in substance, that "the
switching components inform an intended recipient about the availability of the different
variants (formats) in which the multi-media message is available.... Mostafa fails to
disclose that the network components provide for a plurality of variants of the multi-
media message. Furthermore, as a consequence, Mostafa also fails to notify the
recipient that a plurality of variants are available and therefore there exists no selection
process by the recipient in which the recipient selects one of the offered variants for
download" (Brief, pages 7-8).

The Examiner respectfully disagrees. The Examiner submits that the
combination of Mostafa and Shinohara discloses features of claims 29, 56, 57, and 58.
For example, Mostafa discloses notify the recipient that a plurality of variants are
available "according to 3GPP TS 23.140, release 4, the standard MMS notification

message, used to inform an intended recipient user agent that a multimedia message is

available for download, must be modified in such a way as to provide particulars of a

streamable multimedia component to be downloaded" ([0029]). Furthermore secondary

reference Shinohara discloses "each of mobile telephones 10.sub.1-10.sub.4 has the

capability to receive text data of format T1, graphics data of format G1, video data of

format V1, and audio data of format A1 (multimedia data of format 1) .... The connection

of an external terminal enables an extension of the range of data formats that each of

mobile telephones 10.sub.1-10.sub.4 can receive" ([0039], also see [0047], [0045]-

[0046]). In addition, Shinohara also discloses, "mobile telephone 10.sub.2 and mobile

telephone 10.sub.4 are able to receive data of format 2, but mobile telephone 10.sub.3

is able to receive only video data of format V1. MMS user database server 30 therefore

transmits to mobile telephone 10.sub.1 the determination result that mobile telephone

10.sub.3 is unable to receive data of format 2 as well as the information that the only

format that mobile telephone 10.sub.3 can receive is format 1 (text T1, graphics G1,

video V1, and audio A1)"(0045). In paragraph 0047 Shinohara discloses "MMS user

database server 30 both holds the multimedia message in MMS servers 50.sub.1-

50.sub.3 according to each media type and reports the incoming call to notify mobile

telephones 10.sub.2-10.sub.4 that are the finally determined destinations that a

multimedia message has arrived. MMS user database server 30 also notifies mobile

telephone 10.sub.3 that video data that are included in the arrived multimedia message

is of format V2, which cannot be received" ([0048]). Finally, "an incoming call notice has

been transmitted to mobile telephone 10.sub.3 that includes the information that video

data of format V2 that cannot be received are included in the multimedia message that

has arrived, the user of mobile telephone 10.sub.3 decides whether or not to receive the

video data. If the user decides to receive the video data, the user transmits a reception

request for the multimedia message after first connecting an external terminal to enable

reception of video data of format V2. If the user decides to receive only the data other

than the video data and decides that there is no need to receive the video data, the user

may receive the multimedia message without connecting the external terminal" ([0048]).

10.3.   Applicant also argue "furthermore, as a consequence, Mostafa also fails to notify

the recipient that a plurality of variants are available and therefore there exists no

selection process by the recipient in which the recipient selects one of the offered

variants for download" (Brief, page 7). The Examiner respectfully disagrees. Applicant

recited in the claim 58 "to select at least one of said variants and to receive a delivery,

message containing the requested at least one variant of the one or more user data

objects from the switching component".   Shinohara discloses "mobile telephone

10.sub.2 and mobile telephone 10.sub.4 are able to receive data of format 2, but mobile

telephone 10.sub.3 is able to receive only video data of format V1. MMS user database

server 30 therefore transmits to mobile telephone 10.sub.1 the determination result that

mobile telephone 10.sub.3 is unable to receive data of format 2 as well as the

information that the only format that mobile telephone 10.sub.3 can receive is format 1

(text T1, graphics G1, video V1, and audio A1) ([0045]). Furthermore, Shinohara also

discloses "an incoming call notice has been transmitted to mobile telephone 10.sub.3

that includes the information that video data of format V2 that cannot be received are

included in the multimedia message that has arrived, the user of mobile telephone

10.sub.3 decides whether or not to receive the video data. If the user decides to receive

the video data, the user transmits a reception request for the multimedia message after

first connecting an external terminal to enable reception of video data of format V2. If

the user decides to receive only the data other than the video data and decides that

there is no need to receive the video data, the user may receive the multimedia

message without connecting the external terminal ([0048], also see [0045]-[0046]).

10.4   Furthermore, Appellant argues, in substance, that, "Shinohara teaches to

maintain a database that stores the capabilities of various mobile devices. Shinohara

further teaches that if a receiving device is not capable of processing a specific data

type, then the system automatically modifies the data type into a format that can be

processed by the device. (Id.) Nothing else is disclosed by Shinohara. Modifying the

data format of a multimedia message, however, is clearly not equivalent to "creating a

plurality of variants of the one or more user data objects" in the switching component"

as claimed. Creating variants allows a recipient to choose which version he would like to

download whereas the Shinohara automatically transforms the message into a format

that can be processed by the receiver. Thus, the recipient never has the possibility of

selecting a different type of message (Brief, page 8).

The Examiner respectfully disagrees. The Examiner submits that Shinohara

disclose "Information regarding the media type of data that can be received as a

message by each of mobile telephones 10.sub.1-10.sub.4 and the format for each

media type that can be received (processing capability information for each media type

for each of mobile telephones 10.sub.1-10.sub.4) is stored in MMS user database

server 30 ([0037]). In paragraph 0039 Shinohara disclose "Each of mobile telephones

10.sub.1-10.sub.4 has the capability to receive text data of format T1, graphics data of

format G1, video data of format V1, and audio data of format A1 (multimedia data of

format 1)"[0039]. The examiner interpret variant as a media type and or format.

Shinohara also disclose "when an external terminal is connected to modify the media

types or formats that can be received, new information regarding processing capability

for each media type may be automatically transmitted from a mobile telephone to MMS

user database server 30". Finally, in paragraphs 45-48, Shinohara disclose "In the

present embodiment, mobile telephone 10.sub.2 and mobile telephone 10.sub.4 are

able to receive data of format 2, but mobile telephone 10.sub.3 is able to receive only

video data of format V1. MMS user database server 30 therefore transmits to mobile

telephone 10.sub.1 the determination result that mobile telephone 10.sub.3 is unable to

receive data of format 2 as well as the information that the only format that mobile

telephone 10.sub.3 can receive is format 1 (text T1, graphics G1, video V1, and audio

A1) ([0045]) and "If the user decides to receive the video data, the user transmits a

reception request for the multimedia message after first connecting an external terminal

to enable reception of video data of format V2. If the user decides to receive only the

data other than the video data and decides that there is no need to receive the video

data, the user may receive the multimedia message without connecting the external terminal" ([0048], also see [0045]-[0047]).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Shinohara with the teaching of Mostafa by including the feature of plurality of variants, in order for Mostafa's system able to modifies the data format of the multimedia message to a format that can be received by all of the destination mobile telephones and then stores the multimedia message in MMS servers, as a result it will be possible to transmit and receive a variety of data including text, graphics, video, and audio, as messages (Shinohara, [0009]).

10.5. Appellant argues, in substance, that the Examiner has not been established a prima facie case of obviousness (Brief, page 9).

The Examiner disagrees. Sufficient motivation has been provided that one of ordinary skill in the art would find it obvious to combine the teachings of Mostafa and Shinohara. Mostafa disclose transmitting a transmission message containing one or more user data objects to a switching component for forwarding to a first telecommunication device (fig. 2, MMS user agent A (110A), wishes to send some media content to MMS user agent B (110B) via MMS relay server) as described above. On the other hand Shinohara discloses to select at least one of said variants and to receive a delivery, message containing the requested at least one variant of the one or more user data objects from the switching component ([0045]-[0048]).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Shinohara with the teaching of Mostafa by including the feature of plurality of variants, in order for Mostafa's system able to modifies the data format of the multimedia message to a format that can be received by all of the destination mobile telephones and then stores the multimedia message in MMS servers, as a result it will be possible to transmit and receive a variety of data including text, graphics, video, and audio, as messages (Shinohara, [0009]). By this rationale, the Examiner has provided sufficient motivation for the combination of Mostafa and Shinohara and the rejection should be maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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Examiner, Art Unit 2493

Conferees:

/Carl Colin/
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